


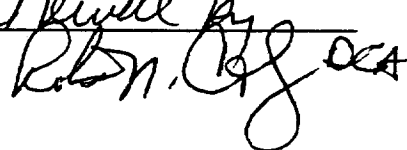
Entered - 3-21-01 - sb
CL - 01L0186 ALEXIS HOLMES

01- R-1069

CLAIM OF: **JIMMIE MCCLARIN**
Through his Attorney
Craig Miller, Esq.
Kaufman, Chaiken Miller & Klorfein
Suite 720
400 Perimeter Center Terrace, NE
Atlanta, Georgia 30346-1234

For damages alleged to have been sustained as a result of a vehicular
incident when police were pursuing a suspect on November 30, 2000
at 1255 Bankhead Highway.

THIS ADVERSE REPORT IS APPROVED

BY: 
ROSALIND RUBENS NEWELL
DEPUTY CITY ATTORNEY 

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 01L0186

Date: 6/29/01

Claimant /Victim JIMMIE MCCLARIN
BY: (Atty)(Ins.) Kaufman, Chaiken, Miller & Klorfein
Address: Suite 720 400 Perimeter Center Terrance, NE Atlanta, Georgia 30346-1234
Subrogation Claim for Property damage \$ Bodily Injury \$ Unspecified
Date of Notice: 3/22/01 Method: Written, proper X Improper
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence 11/30/00 Place: 1255 Bankhead Highway MARTA Station
Department Police Division: Field Operations Division
Employee involved Officer. W.A. Terrell Disciplinary Action: Pending

NATURE OF CLAIM: The claimant alleges that a City of Atlanta police officer driving in pursuit of a suspect struck him. The City extended an offer of \$2,000.00, and the claimant's attorney rejected the City's offer.

INVESTIGATION:

Statements: City employee Claimant Other Written X Oral
Pictures X Diagrams Reports: Police X Dept Report Other
Traffic citations issued: City Driver Claimant Driver
Citation disposition: City Driver Claimant Driver

BASIS OF RECOMMENDATION:


Function: Governmental X Ministerial
Improper Notice More than Six Months Other Damages reasonable
City not involved Offer rejected X Compromise settlement
Repair/replacement by Ins. Co. Repair/replacement by City Forces
Claimant Negligent City Negligent Joint Claim Abandoned

Respectfully submitted,



INVESTIGATOR - ALEXIS HOLMES

RECOMMENDATION:

Pay \$ Adverse X Account charged: 1A01 2J01 2H01
Claims Manager:  Concur/date 06-29-01
Committee Action: Council Action

KAUFMAN, CHAIKEN, MILLER & KLORFEIN

A PROFESSIONAL CORPORATION
ATTORNEYS AND COUNSELLORS AT LAW

SUITE 720

400 PERIMETER CENTER TERRACE, N. E.

ATLANTA, GEORGIA 30346-1234

TELEPHONE (770) 390-9200

FACSIMILE (770) 395-6720

CRAIG D. MILLER

March 14, 2001

ENTERED - 3-21-01 - SB
01L0186 - ALEXIS HOLMES

VIA CERTIFIED MAIL

RETURN RECEIPT REQUESTED

CERTIFICATE NO. 7099 3400 0010 1073 9065

Ms. Diane Mitchell
City of Atlanta
Department of Law
68 Mitchell Street, S.W.
Suite 4100
Atlanta, Georgia 30335-0332

Re: ANTE LITEM NOTICE

Our Client: Jimmy McClarin

Date of Incident: November 30, 2000

Place of Incident: Bankhead Marts Station at Bankhead Highway and Ashby Street

Our File No.: 5611-001

Dear Ms. Mitchell:

Please be advised that this law firm represents Mr. Jimmy McClarin in all matters pertaining to bodily injuries he sustained on November 30, 2000, at approximately 5:50 p.m. While walking along the sidewalk toward the entrance to the Bankhead Marta Station, Mr. McClarin was struck by two motor vehicles alongside 1225 Bankhead Highway in Atlanta, Georgia. The first vehicle which struck Mr. McClarin was being pursued by Officer W.A. Terrell, Atlanta Police Department ID# 2661 while he was operating a Atlanta Police car in the course of his employment by the City of Atlanta. Mr. McClarin was then struck a second time, just seconds later, by the aforementioned Atlanta Police car operated by Officer W.A. Terrell.

Pursuant to O.C.G.A. §36-33-5, the City of Atlanta is hereby given notice of Mr. McClarin's claim for damages arising from the above-referenced incident. A copy of the Police Report is enclosed.

Ms. Diane Mitchell

March 14, 2001

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The nature and extent of Mr. McClarin's injuries are as follows:

1. Broken left leg, lacerations;
2. Left arm, elbow and shoulder bruised and dislocated;
3. Right knee bruises, lacerations and torn flesh;
4. Mobility was non-existent for months and is limited now; and
5. Mr. McClarin remains disabled from work at present.
6. Copies of photos are enclosed.

As a result of the second impact (i.e. the collision with the front of the vehicle operated by Atlanta Police Officer W.A. Terrell), Mr. McClarin was knocked down to the pavement and sustained multiple fractures to his left leg, as well as abrasions, contusions and injuries to his left arm and right leg. He was transported from the scene via ambulance to Grady Memorial Hospital where he remained hospitalized and immobile for several weeks.

The negligence which caused the injury is:

- a) Negligence in failing to apprehend the suspects before they entered their automobile; had the Atlanta Police done so, there would have been no chase and no injuries to Mr. McClarin.
- b) Negligence in continuing the chase into a zone of high population density (i.e. a Marta Station) where it was known that pedestrians would be nearby and in danger.
- c) Negligence in the operation of the police vehicle, leaving the roadway, striking a pedestrian upon the sidewalk.
- d) Negligence in failing to discontinue the chase of the suspects once they were in the vicinity of the Marta Station.
- e) Any other acts of negligence which the evidence may show.

KAUFMAN, CHAIKEN, MILLER & KLORFEIN

Ms. Diane Mitchell

March 15, 2001

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The amount of damages claimed is uncertain at this time, and specifying the amount is not required in this Notice. Maryon v. City of Atlanta, 149 Ga. 35, 99 S.E. 116 (1919), Mayor of Waynesboro v. Hargrove, 111 Ga. App. 26, 140 S.E.2d 286 (1965), Tanner v. City of Gainesville, 162 Ga. App. 405, 290 S.E.2d, 541 (1982).

Very truly yours,

A handwritten signature in black ink, appearing to be 'CDM', with a long horizontal line extending to the right.

Craig D. Miller

CDM/jhh

Enclosure

cc: Jimmy McClarin

01-R-1069